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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ERICKSON PRODUCTIONS, INC.,

Plaintiff,

v.

1ST FINANCIAL, INC.,

Defendant.

Civil Case No.

**COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff Erickson Productions, Inc. (“Erickson Productions” or “Plaintiff”), by and through undersigned counsel, hereby demands a trial by jury of all claims and issues so triable, and, as and for its Complaint for copyright infringement against Defendant 1st Financial Inc. (“1st Financial” or “Defendant”) hereby asserts and alleges as follows:

NATURE OF THE ACTION

1
2 1. This is an action for copyright infringement against Defendant for unauthorized
3 and infringing uses of Plaintiff's copyrighted original photographic work identified in Exhibit
4 1 that is the subject of this action (hereinafter the "Photograph").

5 2. Plaintiff seeks all damages available under the law and other relief as set forth
6 herein related to the Defendant's infringement of Plaintiff's copyrights in the Photograph.
7

PARTIES

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9 3. Jim Erickson is a professional photographer who makes his living by taking and
10 licensing photographs.

11 4. Plaintiff Erickson Productions, a California corporation, has an exclusive license
12 related to the commercial sublicensing of Jim Erickson's photographic images, including the
13 Photograph.
14

15 5. Erickson Productions' primary place of business is Petaluma, California.

16 6. Upon information and belief, Defendant 1st Financial is a Maryland corporation
17 that, according to its website, is a "Mortgage Banking firm serving consumers and industry
18 partners."

JURISDICTION AND VENUE

19
20 7. Jurisdiction for Plaintiff's claims lies with the United States District Court for the
21 Northern District of California pursuant to the Copyright Act of 1976, 17 U.S.C. §§101, *et seq.*,
22 28 U.S.C. § 1331 (conferring original jurisdiction "of all civil actions arising under the
23 Constitution, laws, or treaties of the United States"), and 28 U.S.C. § 1338(a) (conferring original
24 jurisdiction over claims arising under any act of Congress relating to copyrights).
25

26 8. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) because a substantial
27 portion of the alleged misconduct by the Defendant giving rise to the claims asserted herein
28 occurred in this District and 28 U.S.C. § 1400(a) because, upon information and belief, Defendant

1 may be found in this District.

2 9. This Court has personal jurisdiction over the Defendant because, upon information
3 and belief, the foreseeable effects of Defendant's illegal copying were felt by Plaintiff in this
4 District.

5 **FACTUAL ALLEGATIONS**

6 10. Upon information and belief, Defendant owns and/or operates the following
7 websites ("Websites"):

- 8
- 9 • www.veteranloanexpert.com;
 - 10 • www.ffiloans.com; and
 - 11 • www.1stfinancialinc.com.

12 11. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiff's copyrighted
13 Photograph at issue in this action.

14 12. Attached hereto as Exhibit 2 is a true and correct copy of a screen capture of one of
15 Defendant's Websites as it was displayed on January 12, 2017, demonstrating Defendant's use of
16 the Photograph.

17 13. Upon information and belief, Defendant also published the Photograph on its other
18 Websites.

19 14. Defendant did not obtain a license to copy, publish or use Plaintiff's Photograph in
20 any manner.

21 15. Defendant copied, published, and otherwise exploited Plaintiff's copyrighted
22 Photograph for commercial use without permission or license.

23 16. On or about January 12, 2017, Plaintiff, through counsel, sent a cease and desist
24 letter to the Defendant demanding that the unauthorized copy of Plaintiff's photograph be removed
25 immediately.
26
27
28

1 **WHEREFORE**, Plaintiff respectfully prays for judgment on its behalf and for the
2 following relief:

- 3 1. A trial by jury of all claims and issue so triable;
- 4 2. A permanent injunction against Defendant from copying, displaying, distributing,
5 advertising, promoting, and/or exploiting in any manner the copyrighted work identified herein,
6 and requiring Defendant to deliver to the Court for destruction or other appropriate disposition all
7 relevant materials, including digital files of Plaintiff's Photograph and all copies of the infringing
8 materials described in this complaint that are in the control or possession or custody of Defendant;
- 9 3. All allowable damages under the Copyright Act, including, but not limited to,
10 statutory or actual damages, including damages incurred as a result of Plaintiff's loss of licensing
11 revenue and Defendant's profits attributable to infringements, and damages suffered as a result of
12 the lack of credit and attribution, as well as for removal/alteration of copyright management
13 information;
- 14 4. Plaintiff's full costs, including litigation expenses, expert witness fees, interest, and
15 any other amounts authorized under law, and attorneys' fees incurred in pursuing and litigating
16 this matter;
- 17 5. Any other relief authorized by law, including punitive and/or exemplary damages;
18 and
- 19 6. For such other and further relief as the Court deems just and proper.
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1 Dated: August 8, 2017

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3 Respectfully submitted,

4 /s/ Nathaniel Kleinman

5 Nathaniel Kleinman (to be admitted *pro hac vice*)

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